



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB)**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 – 3520), the Federal Communications Commission (FCC) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and further ways to reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid Control Number.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

**ADDRESSES:** Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202-395-5167 or via Internet at [Nicholas\\_A.\\_Fraser@omb.eop.gov](mailto:Nicholas_A._Fraser@omb.eop.gov)

and to Leslie F. Smith, Federal Communications Commission (FCC), via the Internet at

[Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov). To submit your PRA comments by e-mail, send them to [PRA@fcc.gov](mailto:PRA@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** Leslie F. Smith, Office of Managing Director, FCC, at (202) 418-0217, or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

OMB Control Number: 3060-0392.

Title: 47 CFR 1 Subpart J – Pole Attachment Complaint Procedures.

Form Number: N/A.

Type of Review: Revision of currently approved collection.

Respondents: Businesses or other for-profit, and State, local or tribal governments.

Number of Respondents and Responses: 1,772 respondents; 1,772 responses.

Estimated Time per Response: 0.5 to 100 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure;

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 224.

Total Annual Burden: 2,629 hours.

Total Annual Cost: \$450,000.

Privacy Act Impact Assessment: No privacy impacts.

Nature and Extent of Confidentiality: There is no need for confidentiality. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR Section 0.459 of FCC rules.

Needs and Uses: The rules and regulations contained in 47 CFR Part 1 Subpart J provide complaint and enforcement procedures to ensure that telecommunications carriers and cable system operators have nondiscriminatory access to utility poles, ducts, conduits, and rights-of-way on rates, terms and conditions that are just and reasonable. The FCC will use the information collected under these rules to hear and resolve petitions for stay and complaints as mandated by Section 224 of the Communications Act of

1934, as amended. The information that is also filed is used to determine the merits of the petitions and complaints. Additionally, state certifications are used to make public notice of the states' authority to regulate rates, terms and conditions for pole attachments, and to determine the scope of the FCC's jurisdiction.

On April 7, 2011, the FCC released a Report and Order and Order on Reconsideration, Implementation of Section 224 of the Act; A National Broadband Plan for our Future, WC Docket No. 07-245 and GN Docket No. 09-51, FCC 11-50. This rulemaking added 47 C.F.R. Section 1.1424.

Section 1.1424 states that the procedures for handling pole attachment complaints filed by incumbent local exchange carriers are the same as the procedures for handling other pole attachment complaints. Section 1.1424 further requires incumbent local exchange carriers that claim they are similarly-situated to other attachers to bear the burden of demonstrating their similarity.

The Commission has also revised Section 1.1403(b) which requires that requests for access to a utility's poles, ducts, conduits or rights-of-way by a telecommunications carrier or cable operator be in writing. If access is not granted within 45 days of the request for access, the utility must explain the denial or grant of access conditioned on the performance of make-ready by the 45<sup>th</sup> day.<sup>1</sup>

The other applicable rule sections remain unchanged:

Section 1.1403(c) requires a utility to provide a cable television system operator or telecommunications carrier no less than 60 days written notice prior to removal of facilities, termination of any services to those facilities, increase in pole attachment rates, or modification of facilities.

Section 1.1403(d) allows a cable television system operator or telecommunications carrier to file a "Petition for Temporary Stay" of the action contained in a notice received pursuant to Section 1.1403(c) within 15 days of receipt of such notice. The "Petition for Temporary Stay" must contain, in concise terms, the relief sought, the reasons for such relief, including a showing of irreparable harm and likely

---

<sup>1</sup> The Commission has revised this language slightly to make it comport better with the language in 47 C.F.R. Section 1.1403(b).

cessation of cable television service or telecommunications service, a copy of the notice, and a certificate of service. The named respondent may file an answer within 7 days of the date the Petition was filed.

Section 1.1403(e) requires cable operators to notify pole owners upon offering telecommunications services.

Section 1.1404 specifies the information that must be included in a pole attachment complaint.

Section 1.1406(b) requires a complainant to file additional information supporting its complaint, if requested by the Commission.

Section 1.1407 requires the respondent to file a response within 30 days from the date the complaint was filed. The complainant then has 20 days from the date the response was filed to file a reply. The response and reply shall be served on all parties listed in the certificate of service.

Section 1.1414 requires states that regulate the rates, terms and conditions for pole attachments to file a certification with the FCC.

Section 1.1417 requires a utility to apportion the cost of providing unusable space on a pole so that such apportionment equals two-thirds of the costs of providing unusable space that would be allocated to such entity under an equal apportionment of such costs among all attaching entities. Section 1.1417 sets forth the procedures to be followed in establishing a maximum just and reasonable pole attachment rate.

#### **FEDERAL COMMUNICATIONS COMMISSION.**

**Marlene H. Dortch,**  
Secretary.

[FR Doc. 2013-03215 Filed 02/11/2013 at 8:45 am; Publication Date: 02/12/2013]